

AUG 28 2002

UNITED STATES FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	EB Docket No. 02-21
)	
Peninsula Communications, Inc.)	
)	
Licensee of stations	)	File No. EB 01-1H-0609
KGTL, Homer, Alaska;	)	FRN: 0001-5712-15
KXBA(FM), Nikiski, Alaska;	)	Facility ID Nos. 52152
KWVV-FM, Homer, Alaska; and	)	86717
KPEN-FM, Soldotna, Alaska.	)	52145
	)	52149
)	
Licensee of FM translator stations)	
K292ED, Kachemak City, Alaska;	)	52150
K285DU, Homer, Alaska;	)	52157
K285EG and K272DG, Seward, Alaska	)	52158 and 52160
)	
Former licensee of FM translator)	
stations)	
K285EF, Kenai, Alaska;)	
K283AB, Kenai/Soldotna, Alaska;)	
K257DB, Anchor Point, Alaska;)	
K265CK, Kachemak City, Alaska;)	
K272CN, Homer, Alaska; and)	
K274AB and K285AA, Kodiak, Alaska)	

Witness: John C. Davis

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ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 205545

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DEPOSITION OF JOHN C. DAVIS

Tuesday,

August 13, 2002

Pursuant to Notice, the deposition of John C. Davis was taken before Joan Crow-Epps, Notary Public in and for the State of Alaska, and Reporter Sterling Court Reporters, at Kenai, Alaska, on the thirteenth day of August, 2002, beginning at the hour of 1:04 p.m.

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(202) 628-4888

APPEARANCES:

For the Federal
Communications
Commission:
Commission

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P R O C E E D I N G S

(1:04 p.m)

THE REPORTER: On record. I am Joan Crow-Epps, reporter for Sterling Court Reporters, 44690A Sunrise Avenue, Soldotna, Alaska. We are present at KSRM Radio, 40960 Kalifornsky Beach Road, Kenai, Alaska at 1:04 p.m. the 13th day of August, 2002, to take the deposition of John C. Davis in the matter of Peninsula Communications, Inc., Federal Communications Commission EB Docket No. 02-21. Will counsel please identify themselves on the record?

MR. SHOOK: James Shook for the Chief Enforcement Bureau, Federal Communications Commission.

MS. LANCASTER: Judy Lancaster, also of the Federal Communications Commission.

THE REPORTER: Mr. Davis, would you raise your right hand please?

(Oath administered)

MR. DAVIS: I do.

THE REPORTER: Thank you sir. Mr. Shook.

MR. SHOOK: Thank you.

JOHN C. DAVIS,

a witness, called for examination by counsel on behalf of the Federal Communications Commission, being first duly sworn, examined and testified as follows:

Q State your name please.

1 A John C. Davis, D-A-V-I-S.

2 Q What is your business address?

3 A Business address is 40960 Kalifornsky Beach Road,
4 shortened to K Beach Road, Kenai, Alaska 99611.

5 Q Are you affiliated with KSRM, Inc.?

6 A Yes, I am.

7 Q In what capacity?

8 A I am the President of the Corporation and the CEO.

9 Q Are you a Director?

10 A Yes, I am.

11 Q And how many Directors are there other than yourself?

12 A Two.

13 Q And how long has that been the case?

14 A Since 1982.

15 Q Are you a shareholder?

16 A Yes, I am.

17 Q Approximately what percentage of ownership do you have?

18 A Ninety-four percent.

19 Q How long has that been the case?

20 A Since 1982.

21 Q Now does KSRM, Inc. hold any licenses issued by the
22 Federal Communications Commission?

23 A Yeah, we have several. KSRM AM, KWHQ FM, KKIS FM and
24 KSLD FM. We -- we have two remote transmitter receiver
25 licenses, KUN651 and I'm not sure of the other one.

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1 One is in the 450 meg range and the other -- or
2 kilohertz range and the other is in the 150 megs.

3 Q The first four calls signs that you mentioned, those
4 are full power broadcast stations?

5 A Yeah, two AM's and two FM's.

6 Q And the latter two that you mentioned, what are they?

7 A They're remote pickup stations. They're strictly for
8 remote broadcasts and sports.

9 Q Does K.....

10 A Two way radio.

11 Q Okay. Excuse me. I'll try not to interrupt. Does
12 KSRM, Inc. hold any licenses for FM translators?

13 A No.

14 Q Has it ever?

15 A Yeah, we -- we had a license for Homer broadcasting,
16 the call letters previous to KWHQ, KQOK, in the late
17 70's or 80's, I'm not sure. Anyway, we were down there
18 for a period of time and we were broadcasting in Homer
19 on a 100 watt translator. The call letters were
20 K265AG.

21 Q And.....

22 A That's no longer in service.

23 Q Okay. And I'll ask some more questions about that in a
24 little bit. Prior to your becoming President of KSRM,
25 Inc., which I believe you stated was in 1982, what

1 role, if any, did you have with KSRM, Inc.?

2 A I was hired as General Manager of the station KSRM
3 owned by Solid Rock Ministries in February of 1967.
4 And I was the General Manager until 1982 when we
5 purchased the -- the company.

6 Q You purchased it from Solid Rock?

7 A No, we purchased it from Solid Rock in 1972. I still
8 remained General Manager but not President of the
9 corporation KSRM, Inc. I was a minority stockholder.

10 Q And then you became the majority stockholder in 1982?

11 A Yes sir.

12 Q Now you had indicated that there came a time when KSRM,
13 Inc. placed an FM translator at Homer?

14 A Yes.

15 Q And what role, if any, did you have in putting the
16 translator there?

17 A It was totally my responsibility and I obtained the
18 financing and did the installation with my engineers
19 and was responsible for all the paperwork with the
20 Commission.

21 Q And approximately when did that translator come on
22 line? And for purposes of that question I'm going to
23 place before you a document that bears the title
24 Peninsula Communications, Inc., it's FCC81-484 bearing
25 a release date of January 11, 1982. And I direct your

1 attention to the second paragraph of that Order.

2 A We started operating our translator in January of 1979
3 in Homer. And, like I say, it rebroadcasts the signal
4 of KQOK FM which was broadcasting here in Kenai and
5 Soldotna.

6 Q Now, in -- under ordinary circumstances would the
7 signal of KQOQ have been able to reach and serve Homer?

8 A KQOK and now....

9 Q Or excuse me, KQOK.

10 Anow KWHQ reach out about 40 miles. And it's 65
11 miles to Homer.

12 Q So in order to provide service to Homer you needed this
13 translator?

14 A Yeah. It was outside of our primary service area to
15 provide service for Homer which needed the service in
16 those days. Our AM station, KSRM, reaches down there
17 handily with 5,000 watts of AM power and we wanted to
18 bring the country music format to Homer and that's what
19 we -- why we put it in.

20 Q Now was there any reason why KSRM, Inc. did not build
21 and operate a full power station at Homer as opposed to
22 a translator?

23 A Homer is a fairly small community and it was just our
24 decision to not do that.

25 Q Was that based primar -- was that reason based on the

1 cost differences between a translator and a full power
2 station?

3 A Yeah, we put our translator in at Homer for about I
4 think \$2,500.00 including everything, tower, antenna,
5 remote building site and all that. But we also had --
6 we received -- with a beam antenna we were able to
7 receive our signal from Kenai 65 miles away in real
8 high quality. So it was just a matter of putting up
9 the beam antenna and rebroadcasting the signal on the
10 KQOK transmitter, KUN -- K265AG.

11 Q Now you said it cost about \$2,500.00 to put up the
12 Homer translator. What estimates, if any, would you
13 believe reasonable to have put up a full power station
14 at Homer?

15 A A full power FM station in Homer would have probably -
16 - depending on where we located the antenna, would have
17 been considerable. I would say if we could have found
18 an anten -- or a location for our antenna it probably
19 would have run fairly close to \$40,000.00 depending on
20 cost of land. And if we put in -- if we had our own --
21 had a tower available for lease or something, or if
22 we'd have had to put up a tower, it would have cost
23 another \$50,000.00 grand.

24 Q So conceivably as much as \$100,000.00.....

25 A Uh-huh (affirmative), right.

- 1 Qto build a full power FM station in Homer?
- 2 A Right, depending on all of those different
- 3 circumstances.
- 4 Q Now were you able to, you know, keep track basically of
- 5 how much it cost to operate the FM translator in Homer?
- 6 A Yeah, it was real easy. The cost of operation was the
- 7 electricity involved in operating the translator itself
- 8 and the receiver and generally ran around \$160.00 a
- 9 month.
- 10 Q And again, comparing that.....
- 11 A Maximum.
- 12 Qwith the cost of operating a full power station,
- 13 if you had had a full power in Homer could you give us
- 14 some idea of what it would have cost to operate such?
- 15 A It's hard to say because there are so many variables.
- 16 Definitely more than the power bill because a full-time
- 17 station requires all kinds of people. I would guess
- 18 from my figures here in Kenai and Soldotna with the FM
- 19 station it would cost probably at least \$25,000.00 a
- 20 month.
- 21 Q And that's taking into account that only.....
- 22 A That would be -- that would be the least amount.
- 23 Q Right, that's taking into account the power
- 24 requirements and I also take it that there would have
- 25 to be some employment of some kind.

1 A Yeah, you have to have a full-time staff, you have to
2 have announcers and office staff and salespeople and
3 with a translator all you need is one salesperson. You
4 don't have any personnel whatsoever. Total cost of
5 running an operation is less than \$200.00 for a
6 translator of 100 watts in size.

7 Q All right. And did KSRM, Inc. in fact employ a
8 salesperson in Homer to sell advertising time?

9 A Yeah, we had a couple different people sold for us down
10 there. The one that sold the longest was a lady and
11 she would sell in Homer, get her material from the
12 clients to us and we would broadcast the commercials on
13 the air. And I don't recall her ever taking home less
14 than \$3,000.00 a month and she earned 18 percent.

15 Q All right. So from that we could do the math to figure
16 out roughly what was generated in revenue each month.

17 A With a calculator.

18 Q Actually I would allow my -- some of my children to do
19 that, they're very bright in mathematics. So it would
20 be fair to say that the Homer translator generated
21 quite a bit of revenue over the years.

22 A Yeah, it -- it was quite a percentage, I don't recall
23 what it was, quite a high percentage right up until the
24 day we turned it off. We had -- we had a pretty good
25 income down there.

1 Q Now when the Homer translator began operations were
2 there any full power commercial radio stations
3 operating in Homer?

4 A No, this was the only -- only one in Homer. On our AM
5 station -- we did about 20 percent of our business on
6 the FM, we did about -- a like amount, 20, 25 percent.

7 Q When you say 20 percent what you mean is that 20
8 percent of the advertising revenue that the station
9 generated came from Homer?

10 A Yeah.

11 Q Now did there come a time when Peninsula
12 Communications, Inc. began to operate a full power
13 commercial radio station in Homer?

14 A Yeah, they operated a station and put on the air and -
15 - I'm not sure.

16 Q Well, again.....

17 A November.

18 Qreferring to the.....

19 A I think November of that year, I'm not sure.

20 Q Let me direct your attention to paragraph three of the
21 Peninsula Communications, Inc. Order FCC81-484 that was
22 released January 11, 1982. You can read that paragraph
23 to yourself and then we can go on.

24 A Which paragraph?

25 Q Paragraph three.

1 (Pause)

2 A So they began operation of their KGTL FM on -- in -- on
3 September of 1979. I do recall that when they came on
4 the air they came on -- on our exact FM translator
5 frequency.

6 Q And what did you have to do as a consequence of that?

7 A So then we had to apply to the Commission for a new
8 location because a local full power FM of course takes
9 priority over any translator service. So we moved over
10 to another frequency, 98.3.

11 Q And did that mean that you went off the air for a
12 certain period of time?

13 A I'm not sure whether we went off for very long for the
14 simple reason that we knew it was coming and that we
15 would have to make the move because he had filed with
16 the Commission for that frequency. So I doubt we were
17 off the air very long.

18 Q And were the revenues generated by the Homer translator
19 affected at all by the presence of Peninsula's full
20 power station?

21 A We kept our -- we kept our salesperson down there right
22 up till the day we went off the air in 1994. I don't
23 have those figures in front of me but I doubt it varied
24 very much. We had -- we had really good income right
25 up till the time we shut it off.

1 Q All right. Now did Peninsula ever attempt to have
2 KSRM, Inc's translator at Homer shut down?

3 A Yes. I don't know the dates on it, but they tried to
4 have us shut our translator off and the Commission said
5 no to their request and we were allowed to keep it on
6 the air.

7 Q Did there come a time when Peninsula built and began to
8 operate a translator in the Kenai Soldotna area?

9 A Yeah, they -- they applied for a transmitter to -- or a
10 translator to operate in Kenai and Soldotna. I'm not
11 sure of the dates on that. If you have anything in the
12 records that might show that, I -- I'm not sure of the
13 dates.

14 Q All right. And.....

15 A But they applied for one translator to operate in Kenai
16 and Soldotna.

17 Q All right. And do you know what station ultimately was
18 translated by that translator?

19 A The translator was KGTL FM which was subsequently
20 called KWVV FM.

21 Q Now did the presence of the Peninsula translator in the
22 Kenai Soldotna area have any impact on the advertising
23 revenues of KSRM, Inc.?

24 A In the early days when they first put it on it didn't
25 have very much because we were so dominant in the

1 market. However, they subsequently applied for another
2 translator and they put one in Kenai and one in
3 Soldotna. So we had two of them that were operating --
4 I -- I heard they were operating at 200 watts, whatever
5 they were operating at you could get them as far away
6 as our broadcast -- regular broadcast stations. So I
7 don't know what power they were, but we could go
8 anywhere we wanted to, whether it was Moose Pass or
9 Ninilchik or Nikiski and they were always as loud as
10 our full-time full power FM broadcast stations.

11 Q And that was with translators as opposed to full power
12 stations?

13 A Those were translators compared to our full power FM.

14 Q All right. And then the question that I had asked was
15 to your knowledge did the presence of the Peninsula
16 translator or ultimately translators have any impact on
17 the advertising revenues of KSRM, Inc.?

18 A Talking about the translators in Kenai and Soldotna?

19 Q Initially, yes.

20 A Yeah, uh-huh (affirmative). Those -- the translators
21 in Kenai and Soldotna have been a real asset for
22 Peninsula Communications. Basically they call
23 themselves the super station. And that means that they
24 have any number of translators, somewhere from nine to
25 11, it's hard to keep track of them, in Kodiak, Anchor

1 Point, Kenai, Soldotna, Seward and in Homer
2 broadcasting Kenai Soldotna stations that they have
3 now. And it definitely impacted the revenues that we
4 have in our market.

5 Q By impact it I take it you mean negatively?

6 A Yeah. The -- the super station concept is bought into
7 readily by advertising agencies. We do about 40
8 percent of our business in advertising outside the
9 market. In other words these agencies are located in
10 Anchorage, Seattle, New York, Los Angeles, wherever,
11 and when they get a chance to offer one buy to cover
12 all these different markets. The Kenai Peninsula is as
13 large -- Kenai Peninsula Borough is as large as the
14 three smallest states. Homer is 65 miles from Kenai
15 Soldotna, Seward is 75 miles from Kenai and Soldotna
16 and Seward is 90 miles from Homer. Kodiak is way down
17 the chain, way down -- I don't know how many miles, it
18 must be about 140, 150 miles.

19 Q From where?

20 A From Kenai Soldotna.

21 Q Okay.

22 A So we're talking about a really large area and if an
23 agency buyer, media buyer, can say man, you mean I can
24 get Kodiak and Homer and Kenai and Soldotna and Seward
25 with just one buy? Wow, sign me on. And so it leaves

1 us dragging because we can say, well, we have the
2 largest market here in Kenai Soldotna, but I'm sorry,
3 we can't reach Kodiak 150 miles away, we can't reach
4 Homer 75 miles away and we can't reach Seward 75 miles
5 away so we'll -- we just can't help you there, all you
6 can -- all we can give you is Kenai and Soldotna
7 because these -- this other -- your -- our competition
8 is operating these illegal translators in all these
9 different areas.

10 Q Now if memory serves you did state awhile back that
11 with respect to the -- one of the AM stations that KSRM
12 has that some kind of signal was provided to Homer, or
13 at least there was a time when that was the case? Do
14 you recall stating that?

15 A Say that again?

16 Q In earlier testimony it was my understanding that one
17 of the KSRM stations, an AM station, provided a
18 serviceable signal to Homer?

19 A In -- until the time KGTL, the first station put on the
20 air -- or FM in Homer was put on the air KSRM from 1969
21 until 19 -- in the late 70's, till that went on the
22 air, did approximately 20 to 30 percent of our business
23 in Homer.

24 Q And.....

25 A On the AM station. And then we picked that up a little

1 bit when we put on the FM translator in Homer.

2 Q And did that continue to be the case through the 80's
3 up to the present?

4 A No. What happened was when they had their own local
5 station, as rightfully should be, it was a full-time FM
6 broadcast station in Homer, of course all the local
7 business loyalty went to that station and we pulled out
8 of the market.

9 Q I see.

10 A When the FM station -- when our FM translator went off
11 the air then we lost that revenue as well.

12 Q Now when did that FM translator go off the air?

13 A Well, the Commission gave us all three years warning as
14 I recall that we were going to have to turn off all our
15 translators that were outside of our primary service
16 areas and not use this fill in for primary service area
17 coverage. We began preparing for that and we sold out
18 radio station translator right up until that day, May
19 31st. But on June 30th.....

20 Q You mean June 1st?

21 A On June fir -- no, on May thir -- on June 1st I
22 personally went down and turned the translator off
23 myself.

24 Q All right. And so that would be June 1, 1994?

25 A Yes, uh-huh (affirmative).

1 Q And so from that time forward you did not operate an FM
2 translator in Homer?

3 A No, we've never had a FM translator since then because
4 it's against the rules.

5 Q Now in your opinion does -- we've talked a little bit
6 about this but I didn't ask the question quite this
7 way. In your opinion does Peninsula gain a competitive
8 advantage vis a vis KSRM, Inc. by continuing to operate
9 translators that provide service outside of the primary
10 service contour areas?

11 A Yeah, there's -- that's a really good question. I've
12 addressed it somewhat, but I need to reemphasize how
13 important that is. It's really not the fact that the
14 translator -- one translator is in our area or two
15 translators are in our service area, it's the fact that
16 nine or 11 or 12 or however many translators you have
17 cover such a wide area with no -- no connection
18 economically or any other way that they can pull down
19 huge orders from businesses or from agencies outside
20 the area in Anchorage and placing ads for larger
21 companies and corporations. I need to point out that
22 there's two basic ways that the translators hurt the
23 individual local full -- full-time full power radio
24 stations, the translators that are operated outside the
25 primary service areas. There's two ways that -- that

1 they hurt us and one is -- the number one way is
2 agencies representing companies placing one order and
3 reaching huge areas of people in different markets with
4 no connection. And the second way is -- is going to
5 our local businesses. In every market there's about 15
6 to 20 businesses that are fairly large that spend a lot
7 of advertising dollars, we call them the gravy
8 accounts. Normally we would get big buys out of all
9 these, but they're all curtailed because they can make
10 this one buy hoping that they can get representation
11 for their advertising in these other areas. And so we
12 lose a lot of dollars there. It's -- it's quite a
13 lucrative thing for Peninsula Communications to operate
14 their two 200 watt translators in our area at a cost of
15 less than \$500.00 per month electric bill and to take
16 in from \$10,000.00 to \$15,000.00 a month in local
17 revenue plus agency buys. So there's a considerable
18 amount of dollars that are involved in this situation.

19 Q Now your understanding of approximately how much money
20 Peninsula is able to draw from advertisers is based on
21 what? If you could, you know, give us an understanding
22 as to how you reach that -- reach those figures.

23 A Yeah, if I were to address that I would have to tell
24 you right up front that it's strictly estimated, no one
25 except the Peninsula Communications people know the

1 income they take out of our area. But from talking to
2 advertisers, talking to agencies and talking to other
3 full-time local broadcasters and full service
4 broadcasters in Kodiak, Seward, Kenai and Soldotna it's
5 my estimate that there's a minimum of \$10,000.00 to
6 \$15,000.00 taken out of the Kenai, Soldotna market
7 because of the translators. In Seward it's around
8 \$5,000.00 and in Kodiak it's around \$10,000.00. And
9 that makes a big -- big pocket of change when you
10 divide -- take that type of money over the eight years
11 these have been operating illegally.

12 Q Now if I were to use the terms fill in translators and
13 other areas translators, do you understand that there
14 is a difference between the two?

15 A Yes, I do.

16 Q And could you just explain, you know, for the record
17 what your understanding is?

18 A Primary service area for my KWHQ FM for instance is
19 approximately 35 to 40 miles. And that contour is
20 figured out by my engineers and FCC engineers and that
21 becomes my primary service area depending on the
22 millivolts per meter that I'm putting out in those
23 areas. Anything outside that is not a primary service
24 area.

25 Q So, in other words, would a fill in.....

1 A If I had -- if I had a mountain.....

2 Q Excuse me.

3 A If I had a mountain in my area and behind the mountain
4 they weren't getting my signal and the people in that
5 community wanted it I could put a translator in there
6 and the FCC would approve that, it's my understanding,
7 and I could fill in that area of my primary service
8 area. But I couldn't operate a translator outside my
9 primary service area. If I could I'd put them all over
10 the sate.

11 Q Now have you ever spoken with David Becker about
12 Peninsula's operation of other area translators?

13 A Probably a number of times.

14 Q Do you recall any of the specifics?

15 A Not -- not any of them were ever very cordial, so.

16 Q Do you happen to recall any of the specifics of any of
17 the conversations?

18 A Oh, I remember once we had a -- he came into my office
19 and was griping about something I was doing down in
20 Homer about my translator being there or -- I'm not
21 really sure, it was some time ago. And it started to
22 get violent so I asked him to leave my office and not
23 return and he's obeyed me. I haven't seen him again.

24 Q All right. And that was approximately how many years
25 ago?

1 A Have no idea.

2 Q Okay. To your knowledge has anyone from KSRM, Inc.
3 spoken with David Becker about Peninsula's operation of
4 other area translators?

5 A I'm certain my General Manager has.

6 Q And.....

7 A But I don't know the details on that.

8 Q Your General Manager would be who?

9 A Cherie (ph) Brewer. She handles my day to day
10 operations.

11 Q Now, have you ever spoken with anyone employed by
12 Peninsula about its operation of other area
13 translators?

14 A Yes.

15 Q And who would those persons have been?

16 A That would be Eileen Becker, the CEO's wife, and Terry
17 Coval is marketing representative in the Kenai Soldotna
18 area.

19 Q Focusing first on Eileen Becker, do you recall any of
20 the specifics of the conversations that you --
21 conversation or conversations that you had with her?

22 A She accosted me at a Chamber meeting and got highly
23 vocal and rather than argue in public I turned and
24 walked away. So I really didn't have a conversation
25 probably.

1 Q It was a one way conversation.....

2 A Might have been.

3 Qif you will?

4 A Yeah.

5 Q But the subject so far as you could recall had to do
6 with Peninsula's other area translators?

7 A Our opposition to their translators in areas outside
8 their primary service area. Which -- you know,
9 obviously they would get upset because a large portion
10 of their income comes from that. Homer is a very small
11 community and so to be headquartered in Homer -- you
12 see, although they have -- right now they have KGTL AM
13 in Homer, they have KWVV FM in Homer. In Kenai and
14 Nikiski they have KXBA and KPEN FM. And they're all
15 100,000 or 25,000 watts trans -- or transmitters. And
16 I forget what my point was.

17 Q Well, perhaps -- let me see if I can help you there.
18 With stations located in Homer and stations also
19 located in the Kenai and Soldotna area it would be your
20 understanding that these stations could not without the
21 translators provide service to Kodiak and Seward?

22 A Yeah, they wouldn't provide service to -- but it would
23 be hard -- hard for them to -- their income would be
24 so much lower if they didn't have the translators that
25 I can understand why they would fight to the last --

1 last man to keep them. Homer is a small community --
2 my point was, it was just came to me, although there's
3 all these different stations and translators, all of
4 the programming, all of the programming, originates in
5 Homer. So although you have a salesperson or two
6 salespeople here in Kenai Soldotna selling their
7 translators and their full power stations, all of the
8 programming for all of the stations originates in
9 Homer. So there's really no local programming for
10 Kenai and Soldotna even on their full-time stations.
11 Which is fine with me, because I'm a local broadcaster
12 and I serve my local people and I like it that way,
13 it's very, very good competitively.

14 Q I take it though that that would provide a cost
15 advantage in the sense that it would certainly appear
16 to reduce ones costs if one did not have to originate
17 programming in more than one location.

18 A What it comes down to is Mr. Becker and his staff, he
19 has -- his programming staff is all in Homer, his
20 bookkeeping, everything is done in Homer, all he needs
21 here is -- in Kenai and Soldotna and Seward and Kodiak
22 is salespeople, is one salesperson. So it does reduce
23 your costs terrifically.

24 Q And it's your understanding that there is at least one
25 salesperson for Peninsula in the Kenai Soldotna area

1 and that person's name is what?

2 A There's at least one, his name is Terry Coval
3 something, Coval -- K -- K-O-V-A-L. Coval.

4 Q I believe the spelling is C-O-V-A-L.

5 A C-O-V-A-L.

6 Q And -- all right.

7 A And there may be another one here, I think there is.

8 I'm trying to think of his name. I can't think of his
9 name. He used to work for me.

10 Q All right.

11 A So there's two here in Kenai Soldotna. And they're
12 both earning good wages I'm sure so you can figure out
13 from their salaries about what the income is. But you
14 want to remember when you figure those that they very
15 rarely receive commission on agency buys, so all those
16 go direct to Homer and they bypass all the local
17 marketing people.

18 Q Did there come a time when you became aware that
19 Peninsula had filed an application to -- well, actually
20 let me rephrase that. Did there come a time when you
21 became aware that Peninsula had filed two applications
22 relative to the translator situation in Kenai and
23 Soldotna, one application being to change the
24 translator output station and provide service only for
25 Soldotna and then a second application to -- for a new

1 translator to provide service to Kenai?

2 A Having a very efficient attorney I'm sure that was
3 called to my attention, but I personally do not recall
4 it.

5 MR. SHOOK: All right, can we go off the record for a
6 second please?

7 THE REPORTER: Off record, 1:40.

8 (Off record at 1:40 p.m.)

9 (On record at 1:42 p.m.)

10 THE REPORTER: On the record, 1:42.

11 MR. SHOOK RESUMES:

12 Q Mr. Davis, in giving a little thought to some of the
13 answers that you provided relative to whether or not
14 Peninsula's activities hurt KSRM, Inc. competitively,
15 it -- I recollect from your earlier testimony that when
16 the Kenai Soldotna translator first came on the air
17 that it had little or no impact on KSRM's revenue. But
18 you indicated later on in your testimony that the
19 current situation does hurt KSRM, Inc. Could you
20 explain the apparent inconsistency between those two?

21 A Yes. My point being is that when that first translator
22 came on that was the first one he had, he didn't have
23 any in Kodiak, he didn't have any in Seward and he
24 didn't have any in Homer that were outside the area, or
25 outside of his primary service area. And my point was

1 that that single translator, it took a year or so for
2 it to become established, until people really knew it
3 was there, you know. But -- and then the other fact
4 being -- before it would hurt us any, the other fact
5 being that as soon as he put them on in all the other
6 areas that's when it really began to dig into our
7 income at the radio station. In other words, as I
8 reiterated and it is so important in this discussion,
9 is that the multitude of translators reaching all these
10 different markets that have no -- they're not connected
11 in any way. I mean there's some places there's miles
12 apart of ocean between them, connecting all of these
13 areas for an agency that's spending \$10,000.00 or
14 \$20,000.00 it's easy for them to put \$12,000.00 or
15 \$15,000.00 on those stations because that's the super
16 station, that's the one that's got the 11 translators,
17 that's the one that can really reach the people for you
18 and you only have to make one buy. You're not going to
19 buy Kenai Soldotna, they only -- they have a lot of
20 people there but they don't reach all these other
21 people, look at what this means.

22 Q Okay. In terms of people -- I know there are census
23 figures out there that would tell us fairly exactly
24 what, you know, the populations of the respective areas
25 are, but from your understanding of the market if you

1 could break down for us approximately how many people
2 are in each of the markets that you mentioned.

3 A Well, in the Kenai Peninsula Borough there's
4 approximately 48,000 people. Kodiak is in a separate
5 borough, it -- it's across 80 miles of ocean. I don't
6 know their figures down there, but I -- I -- I've heard
7 that their population is around 12,000. Is that what
8 you figure, 12,000? Twelve or 14,000, I really don't
9 know. In Seward there's approximately 5,000 to 6,000
10 in the area. In Homer there's approximately 8,000 to
11 10,000 and the rest are all in Kenai and Soldotna of
12 the 48,000.

13 Q Okay, so.....

14 A About 32,000 here.

15 Q All right. So of the 48,000 the majority of them are
16 in the Kenai Soldotna area and then.....

17 A Central Peninsula, uh-huh (affirmative).

18 Q the next largest group would be in the Homer area
19 and then the final group would be in the Seward area.

20 A Right. And it's interesting to note by way of
21 observation, might not have anything to do with this,
22 but the signal from the FM station in Homer which is
23 rebroadcast in Seward and the signal from Kenai
24 Soldotna of the FM station that's broadcast in Seward
25 cannot be heard in Seward at all, they have to be

1 shipped in by satellite and -- and telephone lines.

2 They're that far away and that distant.

3 MR. SHOOK: Off the record again please.

4 THE REPORTER: Off record, 1:47.

5 (Off record at 1:47 p.m.)

6 (On record at 1:47 p.m.)

7 THE REPORTER: On record, 1:47.

8 MR. SHOOK: Mr. Davis, I have nothing further and I
9 thank you for your cooperation in testifying today.

10 MR. DAVIS: Thank you.

11 MR SHOOK: We are finished.

12 THE REPORTER: The deposition is concluded at 1:48.

13 (Deposition adjourned at 1:48 p.m.)

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1 I have read the foregoing pages 1 through 29,
2 and they are a true and accurate record of my
3 testimony therein recorded, and any changes and/or
4 corrections appear on the attached errata sheet
5 signed by me.

6 _____
7 JOHN C. DAVIS

8
9 Subscribed and sworn to before me
10 this ____ day of _____, 2002.

11 _____
12 Notary Public

13 My Commission expires: _____
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JURISDICTION: _____

Before me, the undersigned authority, personally appeared John C. Davis, who, after being duly sworn states that he has read the foregoing deposition transcript, and states that he wishes to make the following changes or corrections to this transcript for the following reasons:

PAGE	LINE	CHANGE	REASON FOR CHANGE
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The witness states that the deposition transcript, pages 1 through 29, is otherwise true and accurate.

Subscribed and sworn to before me
this _____ day of _____, 2002.

Notary Public

My Commission Expires: _____

REPORTER'S CERTIFICATE

FCC DOCKET NO.: 02-21


CASE TITLE: Peninsula Communications, Inc.

HEARING DATE: August 13, 2002

LOCATION: Kenai, Alaska

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.


Date: 8/13/02


Joan Crow-Epps
Official Reporter
Heritage Reporting Corporation
1220 L Street, N.W., Suite 600
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TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.


Date: 8/13/02


Joan Crow-Epps
Official Transcriber
Heritage Reporting Corporation

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 8/13/02


Carlos Gamez
Official Proofreader
Heritage Reporting Corporation